

Introduced by Senator Calderon

February 27, 2009

An act to amend Section 25612.5 of the Business and Professions Code, relating to alcoholic beverages.

LEGISLATIVE COUNSEL'S DIGEST

SB 639, as introduced, Calderon. Alcoholic beverage licensees: retail operating procedures.

Existing law establishes certain general operating standards that are applicable, as provided, to the licensed premises of certain retailers of alcoholic beverages, the violation of which is punishable as a misdemeanor.

This bill would impose a state-mandated local program by requiring that, when feasible, the illumination required on the specified retail licensed premises be energy efficient, the violation of which would be a misdemeanor.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 25612.5 of the Business and Professions
- 2 Code is amended to read:

1 25612.5. (a) This section shall apply to licensees other than a
2 retail on-sale licensee or on-sale beer and wine licensee who is
3 licensed and operates as a bona fide public eating place, as defined
4 in Section 23038, 23038.1, or 23038.2, or as a hotel, motel, or
5 similar lodging establishment, as defined in subdivision (b) of
6 Section 25503.16; a winegrowers license; a licensed beer
7 manufacturer, as defined in Section 23357; a retail licensee who
8 concurrently holds an off-sale retail beer and wine license and a
9 beer manufacturer's license for those same or contiguous premises;
10 and a retail on-sale licensee or on-sale beer and wine licensee who
11 is licensed and operates as a bona fide public eating place, as
12 defined in Section 23038, 23038.1, or 23038.2, or as a hotel, motel,
13 or similar lodging establishment, as defined in subdivision (b) of
14 Section 25503.16, a licensed beer manufacturer, as defined in
15 Section 23357, or a winegrowers license, who sells off-sale beer
16 and wine under the on-sale license on those same or contiguous
17 premises.

18 (b) The Legislature finds and declares that it is in the interest
19 of the public health, safety, and welfare to adopt operating
20 standards as set forth in this section for specified retail premises
21 licensed by the department. The standards set forth in this section
22 are state standards that do not preclude the adoption and
23 implementation of more stringent local regulations that are
24 otherwise authorized by law.

25 (c) Other than as provided in subdivision (a), each retail licensee
26 shall comply with all of the following:

27 (1) A prominent, permanent sign or signs stating "NO
28 LOITERING IS ALLOWED ON OR IN FRONT OF THESE
29 PREMISES" shall be posted in a place that is clearly visible to
30 patrons of the licensee. The size, format, form, placement, and
31 languages of the sign or signs shall be determined by the
32 department. This paragraph shall apply to a licensee only upon
33 written notice to the licensee from the department. The department
34 shall issue this written notice only upon a request, from the local
35 law enforcement agency in whose jurisdiction the premises are
36 located, that is supported by substantial evidence that there is
37 loitering adjacent to the premises.

38 (2) A prominent, permanent sign or signs stating "NO OPEN
39 ALCOHOLIC BEVERAGE CONTAINERS ARE ALLOWED
40 ON THESE PREMISES" shall be posted in a place that is clearly

1 visible to patrons of the licensee. The size, format, form, placement,
2 and languages of the sign or signs shall be determined by the
3 department. This paragraph shall apply to a licensee only upon
4 written notice to the licensee from the department. The department
5 shall issue this written notice only upon a request, from the local
6 law enforcement agency in whose jurisdiction the premises are
7 located, that is supported by substantial evidence that there is
8 drinking in public adjacent to the premises.

9 (3) No alcoholic beverages shall be consumed on the premises
10 of an off-sale retail establishment, and no alcoholic beverages shall
11 be consumed outside the edifice of an on-sale retail establishment.

12 (4) The exterior of the premises, including adjacent public
13 sidewalks and all parking lots under the control of the licensee,
14 shall be illuminated during all hours of darkness during which the
15 premises are open for business in a manner so that persons standing
16 in those areas at night are identifiable by law enforcement
17 personnel. However, the required illumination shall be placed so
18 as to minimize interference with the quiet enjoyment of nearby
19 residents of their property. *When feasible, the illumination shall*
20 *be energy efficient.*

21 (5) Litter shall be removed daily from the premises, including
22 adjacent public sidewalks and all parking lots under the control of
23 the licensee. These areas shall be swept or cleaned, either
24 mechanically or manually, on a weekly basis to control debris.

25 (6) Graffiti shall be removed from the premises and all parking
26 lots under the control of the licensee within 72 hours of application.
27 If the graffiti occurs on a Friday or weekend day, or on a holiday,
28 the licensee shall remove the graffiti 72 hours following the
29 beginning of the next weekday.

30 (7) No more than 33 percent of the square footage of the
31 windows and clear doors of an off-sale premises shall bear
32 advertising or signs of any sort, and all advertising and signage
33 shall be placed and maintained in a manner that ensures that law
34 enforcement personnel have a clear and unobstructed view of the
35 interior of the premises, including the area in which the cash
36 registers are maintained, from the exterior public sidewalk or
37 entrance to the premises. However, this latter requirement shall
38 not apply to premises where there are no windows, or where
39 existing windows are located at a height that precludes a view of

1 the interior of the premises to a person standing outside the
2 premises.

3 (8) Upon request of the local law enforcement agency in whose
4 jurisdiction the licensed premises are located or at the discretion
5 of the department, each public telephone located on off-sale
6 premises (or located in an adjacent area under the control of the
7 off-sale licensee) shall be equipped with devices or mechanisms
8 that prevent persons from calling into that public telephone.

9 (9) Every licensed retailer who sells or rents video recordings
10 of harmful matter, as defined by Section 313 of the Penal Code,
11 shall create an area within his or her business establishment for
12 the placement of video recordings of harmful matter and for any
13 material that advertises the sale or rental of these video recordings.
14 This area shall be labeled “adults only.” The licensed retailer shall
15 make reasonable efforts to arrange the video recordings in this
16 area in such a way that minors may not readily access the video
17 recordings or view the video box covers. The failure to create and
18 label the “adults only” area is an infraction punishable by a fine
19 of not more than one hundred dollars (\$100). The failure to place
20 a video recording or advertisement, regardless of its content, in
21 this area shall not constitute an infraction.

22 (10) A copy of the applicable operating standards shall be
23 available during normal business hours for viewing by the general
24 public.

25 SEC. 2. No reimbursement is required by this act pursuant to
26 Section 6 of Article XIII B of the California Constitution because
27 the only costs that may be incurred by a local agency or school
28 district will be incurred because this act creates a new crime or
29 infraction, eliminates a crime or infraction, or changes the penalty
30 for a crime or infraction, within the meaning of Section 17556 of
31 the Government Code, or changes the definition of a crime within
32 the meaning of Section 6 of Article XIII B of the California
33 Constitution.